

Claim Rejections - 35 U.S.C. § 102

Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Bromberg et al. (U.S. Pat. No. 5,939,485).

Bromberg relates to polymer compositions which exhibit reversible gelation in response to a change in temperature or other environmental stimulus. The compositions have improved stability over simple blends of the constituent polymers (col. 2, lines 57-62). The composition consists of a responsive polymer network made of a responsive component and a structural component (col. 5, lines 66-col. 6, line 5). The responsive component may be any polymer which forms aggregates as a function of temperature. The responsive component typically possesses regions of hydrophobic and hydrophilic character (col. 7, lines 15-20). Suitable responsive components include POP, and POE, and triblock polymers (such as are available under the Pluronic™ tradename). One or more responsive components may be used in the responsive polymer network composition of Bromberg's invention (col. 7, lines 25-53). In example 7, column 25, Bromberg teaches one block of the triblock composition having a molecular weight of 3250 and another block of the triblock composition having a molecular weight of over 5700. (see example 6, line 38).

It is respectfully submitted that Blomberg does not anticipate the invention of Claim 1 because it does not teach each and every element of Claim 1 of the present invention. For example, claim 1 indicates that "said triblock copolymers comprising biodegradable polyester A-polymer blocks and polyethylene glycol B-polymer blocks, wherein the B-polymer block of said Component I triblock copolymer has an average molecular weight of 900 to 2000 Daltons and the B-polymer block of said Component II triblock copolymer has an average molecular weight of 600 to 2000 Daltons". Nothing in Blomberg teaches or suggest that the tri-block copolymers having biodegradable polymer ester A blocks. Therefore, it is respectfully submitted that claim 1

is not anticipated by Blomberg because Blomberg does not teach each and every element of Claim 1, and the 102 rejection should be withdrawn.

Claim Rejections - 35 U.S.C. § 103

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bromberg et al. (U.S. Patent No. 5,939,485), further in view of Rathi et al. (U.S. Pat. No. 6,117,949).

Bromberg indicates that “one or more responsive components may be used in the responsive polymer network composition of Bromberg’s invention (col. 7, lines 25-53).”

Rathi relates to water soluble biodegradable ABA or BAB-type triblock polymers for drug delivery systems. The triblock copolymer drug delivery systems are biodegradable, exhibit reverse thermal gelation behavior, and provide good drug release characteristics (col. 5, lines 26-33). The average molecular weight of each polymeric A block is between about 600 and 3000 (col. 8, lines 53-56). The average molecular weight of each B-block segment is between about 500 and 2200 (col. 8, lines 59-61).

The Examiner concludes that “based on the art available at the time the invention was made, one with ordinary skill in the art would have been motivated to utilize two triblock polymers such as ABA or BAB (as taught in Rathi) because such triblocks are biodegradable, exhibit reverse thermal gelation behavior, and have good release characteristics. As stated earlier, Bromberg explicitly teaches that the responsive component can consist on more than one element, which, to the examiner’s understanding, includes triblock polymers.”

First of all, it is to be noted that Rathi is not available as a reference. Rathi issued after the filing date of the present application and both Rathi and the present application were commonly owned by the current assignee, Macromed, Inc., at the time the presently claimed invention was made. Under 35 U.S.C 103(c) amended 11/29/99, Rathi cannot be used as a prior art reference against the present invention. See MPEP Section 2137.01.